

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ERIC ALAN ISAACSON,	§	
	§	No. 306, 2018
Objector-Below,	§	
Appellant,	§	Court Below: Court of Chancery
	§	of the State of Delaware
v.	§	
	§	C.A. No. 11800
GORDON NIEDERMAYER, and	§	
BRENT REED,	§	
	§	
Plaintiffs-Below,	§	
Appellee, and	§	
	§	
STEVEN A. KRIEGSMAN, LOUIS	§	
J. IGNARRO, JOSEPH	§	
RUBINFELD, DAVID J. HAEN,	§	
JOHN Y. CALOZ, ANITA J.	§	
CHAWLA, ERIC J. SELTER as	§	
representative for the estate of	§	
MARVIN R. SELTER,	§	
	§	
Defendants Below,	§	
Appellees, and	§	
	§	
CYTRX CORPORATION,	§	
	§	
Nominal Defendant Below,	§	
Appellee.	§	

Submitted: December 12, 2018
Decided: December 26, 2018

Before **VALIHURA**, **VAUGHN**, and **SEITZ**, Justices.

ORDER

This 26th day of December, 2018, the Court having considered the parties' briefs and the record on appeal, has determined that the order and final judgment of the Court of Chancery should be affirmed for the reasons stated by the Court of Chancery in its May 10, 2018 transcript ruling and May 17, 2018 Order.¹

NOW, THEREFORE, IT IS HEREBY ORDERED that the judgment of the Court of Chancery is AFFIRMED. Plaintiffs' request for costs is DENIED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Justice

¹ While the Court of Chancery's modest incentive fee award to the plaintiffs did not constitute an abuse of discretion, we recognize that incentive fee awards may be problematic under other circumstances. For this reason, we encourage a careful review of the factors to be considered before making incentive fee awards. *See Raider v. Sunderland*, 2006 WL 75310, at *2 (Del. Ch. Jan 4, 2006).